

1 Analysis” (*id.* ¶ 6). The Collection Protocol further provided that Ms. Cui “is responsible for any
2 and all costs incurred in relation to the ... [Collection] Protocol.” (*Id.* ¶ 8.) Jonathan Langton of
3 TransPerfect then produced a 16-paragraph declaration on July 27, 2021 that addressed these
4 areas and reported his finding that Ms. Cui’s iPhone had been wiped clean and initialized on or
5 around March 21, 2021. (ECF No. 380). When TransPerfect issued its first invoice, a line item
6 for \$1,065.00 was included for the preparation and composition of that declaration. (ECF No.
7 458-1.) Despite numerous conversations and emails between Plaintiffs and Ms. Cui’s counsel,
8 Ms. Cui refused to pay the \$1,065.00 for TransPerfect’s preparation of that declaration.
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11 On November 26, 2021, Plaintiffs filed a motion for an order to show cause (“Motion”)
12 why Ms. Cui should not be held in contempt for failing to comply with the Court’s order to bear
13 the cost of preparing the declaration, as provided for in the Collection Protocol. (ECF No. 457).
14 The Motion was supported by the Declaration of Aaron Halegua, also dated November 26, 2021,
15 and the exhibits attached thereto. (ECF No. 458). When the Court asked about the Motion at a
16 status conference on December 1, 2021, Ms. Cui still had not paid the TransPerfect fee and,
17 through her counsel, stated that she would be filing an opposition instead.
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19 On December 9, 2021, Ms. Cui filed an opposition to the Motion (Cui Opp’n, ECF No.
20 465) and on December 15, 2021, Plaintiffs filed a reply brief (Reply, ECF No. 469). The one
21 portion of Cui’s opposition that concerned the \$1,065.00 charge stated that “Cui no longer
22 disputes” the \$1,065.00 charge for the declaration, “Cui agrees that said amount conforms to the
23 Protocol” and that she would provide a check in that amount to Plaintiffs’ counsel. (Cui Opp’n at
24 3). The parties acknowledged that Ms. Cui has now delivered that payment. Plaintiffs’ reply
25 argued that Ms. Cui only complied after they filed the Motion, and thus she should be found in
26 contempt and Plaintiffs should be awarded attorneys’ fees for costs incurred due to Ms. Cui’s
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1 noncompliance. The Court held a hearing on December 22, 2021 (Min., ECF No. 471), during
2 which time it granted Plaintiffs’ motion for an OSC and issued an OSC against Cui and set the
3 matter for hearing for December 29, 2021.

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5 On December 24, 2021, Ms. Cui filed a “Motion for Relief under Rule 60(b) and to Purge
6 Finding of Contempt” (Rule 60 Mot., ECF No. 472), even though the Court had only issued the
7 OSC (not a finding of contempt) at that stage.² Since the Rule 60 Motion seems intended to be an
8 opposition to the OSC, the Court will construe it as such. The Rule 60 Motion simply rehashes
9 the argument that Ms. Cui made in her opposition to Plaintiffs’ motion for an OSC and at the
10 December 22 hearing—namely, that she had “reasonably questioned said billing description as
11 she believed that the work description was outside the scope of the Collection Protocol” but she
12 has now reconsidered and paid the \$1,065.00 charge. (*Id.* at 4.) Critically, Ms. Cui acknowledges
13 that she only paid the charge “subsequent to the filing [requesting] the order to show cause.” (*Id.*
14 at 2.) On December 27, 2021, Plaintiffs submitted a response to the Rule 60 Motion, arguing that
15 there is no good faith defense to civil contempt and, even if there was, Ms. Cui has failed to state
16 one.
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19 At the OSC hearing held on December 29, 2021, Cui admitted to her failure to timely pay
20 the amount due to TransPerfect and did not object to the entry of an order finding her in civil
21 contempt and a sanction of attorneys fees. Given these facts, the Court agrees with Plaintiffs that
22 Ms. Cui’s arguments fail. Ms. Cui provides zero explanation as to why her questioning of the
23 billing description was reasonable. Ms. Cui *never* articulated a reasonable basis for her objection
24 in either her opposition to Plaintiffs’ motion for an OSC, oral arguments at the December 22
25 hearing, or the filing of the Rule 60 motion. Ms. Cui’s conclusory statement that her objection
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28 ² At the December 22, 2021 hearing, the Court did find Ms. Cui in contempt for violating orders to explain the iTunes
backup detected as reported by Mr. Langton and Ms. Fely Forbes’ observation of a “qq.com” account being used as
an Apple ID on Ms. Cui’s iPhone.

1 was “reasonable” does not make it so. Moreover, in a civil contempt proceeding—as
2 acknowledged in Ms. Cui’s own Rule 60 Motion—subjective intent is immaterial, and good faith
3 is therefore not a defense. *See* Rule 60 Mot. at 3; *Stone v. City & Cnty. of San Francisco*, 968
4 F.2d 850, 856 (9th Cir. 1992). The Ninth Circuit has recognized a “narrow” good-faith exception
5 to the general rule that intent is irrelevant in civil contempt proceedings, but that narrow exception
6 only applies where the contemnors’ action appears to be based on both a good faith and
7 “reasonable” interpretation of the court’s order. *See Institute of Ocean Research v. Seasee*
8 *Shepherd Conservation Society*, 774 F.3d 935, 954 (9th Cir. 2014). Thus, even if Ms. Cui were
9 acting in good faith, Cui cannot demonstrate a reasonable objection that would absolve her from
10 a finding of contempt.

11 Accordingly, the Court finds Ms. Cui in contempt of Court because she violated a clear
12 Court order to pay the \$1,065.00 charge as provided by the Collection Protocol. While she
13 eventually complied, she only did so after Plaintiffs filed a motion with the Court. In terms of a
14 sanction, since Ms. Cui has now complied with the Court’s order by paying the \$1,065.00 such
15 that she has purged her contempt, a further coercive sanction is not necessary. However, in such
16 situations, it is still appropriate to award attorneys’ fees to compensate the party that was required
17 to enforce the contemnor’s compliance with the Court’s order. *See Knupfer v. Lindblade (In re*
18 *Dyer)*, 322 F.3d 1178, 1195 (9th Cir. 2003); *In re Sula, Inc.*, No. 215-BK-23350, 2016 WL
19 3960513, at *2-6 (Bankr. C.D. Cal. July 15, 2016) (award of attorneys’ fees is an appropriate
20 compensatory civil contempt sanction).


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1 At the OSC hearing, Ms. Cui's counsel acknowledged receiving Plaintiffs' proposed
2 attorney's fees prior to appearing in court and indicated Ms. Cui did not object to said amount.
3 **Therefore, the Court hereby orders that Ms. Cui shall pay the reasonable attorneys' fees in**
4 **the amount of \$4,236 to Plaintiffs within 24 hours from this order** for all efforts to get her to
5 comply with the Court's order, including negotiations and correspondence with Ms. Cui's counsel,
6 preparation of the Motion, efforts to resolve the Motion, preparation of the reply, attendance at
7 the December 22 hearing, preparation of the response to the Rule 60 Motion, attendance at the
8 December 29 hearing, and preparation of the fee petition.

9 IT IS SO ORDERED on this 29th day of December, 2021.

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11 RAMONA V. MANGLONA
12 Chief Judge
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